

1 SENATE BILL 23

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

3 INTRODUCED BY

4 John C. Ryan

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO HEALTH; PERMITTING BIOMEDICAL RESEARCH ON LIMITED  
12 CATEGORIES OF HUMAN EMBRYONIC STEM CELLS; PROHIBITING HUMAN  
13 CLONING; IMPOSING PENALTIES; AMENDING THE MATERNAL, FETAL AND  
14 INFANT EXPERIMENTATION ACT.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
18 through 7 of this act may be cited as the "Biomedical Research  
19 Act".

20 Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

21 A. The legislature finds that an estimated one  
22 hundred twenty-eight million Americans suffer from the  
23 crippling physical, economic and psychological burdens of  
24 chronic, degenerative and acute diseases, including Alzheimer's  
25 disease, heart disease, diabetes, Parkinson's disease, spinal

.170442.1

underscored material = new  
[bracketed material] = delete

underscoring material = new  
[bracketed material] = delete

1 cord injuries, macular degeneration, multiple sclerosis, Lou  
2 Gehrig's disease and cancer. The legislature further finds  
3 that human embryonic stem cell research and other biomedical  
4 research in the life sciences and regenerative medicine present  
5 a significant chance of yielding fundamental biological  
6 knowledge from which may emanate therapies to relieve, on a  
7 large scale, human suffering from disease and injury.

8 B. The purpose of the Biomedical Research Act is to  
9 foster research and therapies in the life sciences and  
10 regenerative medicine by permitting research and clinical  
11 applications involving the derivation and use of certain human  
12 embryonic stem cells or stem cell lines while at the same time  
13 prohibiting human reproductive cloning.

14 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
15 Biomedical Research Act:

16 A. "cell lines" means a permanently established  
17 cell culture that will proliferate indefinitely given the  
18 appropriate fresh medium and space;

19 B. "embryo" means an organism of the species Homo  
20 sapiens formed by fertilization;

21 C. "fertilization" means the process whereby the  
22 male sperm and female ovum unite to form an embryo;

23 D. "human adult stem cell" means an  
24 undifferentiated cell found in differentiated tissue that can  
25 renew itself and differentiate to yield specialized cell types;

.170442.1

1           E. "human reproductive cloning" means the asexual  
2 genetic replication of a human being by transferring a  
3 pre-implantation embryo into a uterus or uterine-like  
4 environment with the purpose of creating a human fetus or a  
5 human child;

6           F. "in vitro" means in an artificial environment,  
7 including a test tube or culture medium, and also refers to a  
8 process or reaction occurring in an artificial environment;

9           G. "in vitro fertilization" means an assisted  
10 reproduction technique in which fertilization is accomplished  
11 outside the human body;

12           H. "placental cells" means cells obtained from the  
13 placenta;

14           I. "pre-implantation embryo" means an embryo formed  
15 and maintained outside the human body, by in vitro  
16 fertilization, that has not experienced more than fourteen days  
17 of development; provided that such length of time does not  
18 include any interval in which the development has been  
19 suspended, such as through freezing;

20           J. "primitive streak" means a structure that forms  
21 during the early stages of embryonic development and is  
22 characterized as a furrow in the midline of the embryonic disc  
23 and generally develops around the fourteenth day of existence;  
24 and

25           K. "umbilical cord stem cells" means cells derived

underscored material = new  
[bracketed material] = delete

1 from an umbilical cord.

2 Section 4. [NEW MATERIAL] BIOMEDICAL RESEARCH PERMITTED--  
3 LIMITATIONS--RESEARCH PROHIBITIONS.--

4 A. Research and clinical applications conducted in  
5 accordance with the Biomedical Research Act that involve the  
6 derivation and use of pre-implantation human embryonic stem  
7 cells derived from embryos that are produced by in vitro  
8 fertilization clinics and targeted for disposal or deemed  
9 excess tissue; stem cell lines; human adult stem cells from any  
10 source; umbilical cord stem cells; and placental cells is  
11 permitted.

12 B. Research involving the derivation of human  
13 embryonic stem cells, as permitted by Subsection A of this  
14 section, shall only be conducted in accordance with guidelines  
15 and policies promulgated by the United States department of  
16 health and human services' office for human research  
17 protection, the national research council and the institute of  
18 medicine of the national academies.

19 C. Research shall not be conducted that involves in  
20 vitro culture of an intact human embryo, regardless of  
21 derivation method, for longer than fourteen days or until  
22 formation of the primitive streak begins, whichever occurs  
23 first.

24 Section 5. [NEW MATERIAL] HUMAN REPRODUCTIVE CLONING  
25 PROHIBITED.--

.170442.1

underscored material = new  
[bracketed material] = delete

1           A. It is unlawful to knowingly engage or assist in  
2 human reproductive cloning or attempted human reproductive  
3 cloning of a human being.

4           B. A person shall not knowingly purchase, sell,  
5 transfer or otherwise obtain human embryonic, gametic or  
6 cadaveric tissue for the purpose of reproductive cloning.

7           C. A person shall not knowingly create an embryo by  
8 the method of fertilization with the sole intent of donating  
9 the embryo for research.

10           Section 6. [NEW MATERIAL] SCIENTIFIC RESEARCH--EXEMPT  
11 EMPLOYEES.--An employee shall not be required to conduct  
12 scientific research, experimentation or study that involves the  
13 creation or use of pre-implantation embryos in relation to  
14 human embryonic stem cell research to the extent that such  
15 research conflicts with the sincerely held religious practices  
16 or beliefs of the employee.

17           Section 7. [NEW MATERIAL] PENALTIES.--Violation of the  
18 provisions of the Biomedical Research Act is a misdemeanor and  
19 shall be punishable by a fine of not more than twenty-five  
20 thousand dollars (\$25,000) or imprisonment for not more than  
21 one year or by both fine and imprisonment.

22           Section 8. Section 24-9A-1 NMSA 1978 (being Laws 1979,  
23 Chapter 132, Section 1, as amended) is amended to read:

24           "24-9A-1. DEFINITIONS.--As used in the Maternal, Fetal  
25 and Infant Experimentation Act:

.170442.1

underscored material = new  
[bracketed material] = delete

1           A. "viability" means that stage of fetal  
2 development when the unborn child is potentially able to live  
3 outside the mother's womb, albeit with artificial aid;

4           B. "conception" means the fertilization of the ovum  
5 of a human female by the sperm of a human male;

6           C. "health" means physical or mental health;

7           D. "clinical research" means any biomedical or  
8 behavioral research involving human subjects, including the  
9 unborn, conducted according to a formal procedure. The term is  
10 to be construed liberally to embrace research concerning all  
11 physiological processes in human beings and includes research  
12 involving human in vitro fertilization, but shall not include  
13 diagnostic testing, treatment, therapy or related procedures  
14 conducted by formal protocols deemed necessary for the care of  
15 the particular patient upon whom such activity is performed and  
16 shall not include human in vitro fertilization performed to  
17 treat infertility; provided that this procedure shall include  
18 provisions to ensure that each living fertilized ovum, zygote  
19 or embryo, other than products of conception produced by in  
20 vitro fertilization clinics and targeted for disposal or deemed  
21 excess tissue, is implanted in a human female recipient, and no  
22 physician may stipulate that a woman must abort in the event  
23 the pregnancy should produce a child with a disability;  
24 provided that emergency medical procedures necessary to  
25 preserve the life or health of the mother or the fetus shall

.170442.1

underscoring material = new  
[bracketed material] = delete

1 not be considered to be clinical research;

2 E. "subject at risk", "subject" or "at risk" means  
3 any person who may be exposed to the likelihood of injury,  
4 including physical or psychological injury, as a consequence of  
5 participation as a subject in:

6 (1) any research, development or related  
7 activity that departs from the application of those established  
8 and accepted methods deemed necessary to meet the person's  
9 needs;

10 (2) controlled research studies necessary to  
11 establish accepted methods designed to meet the person's needs;  
12 or

13 (3) research activity that poses a significant  
14 risk to the subject;

15 F. "significant risk" means an activity that is  
16 likely to cause disfigurement or loss or impairment of the  
17 function of any member or organ;

18 G. "fetus" means the product of conception from the  
19 time of conception until the expulsion or extraction of the  
20 fetus or the opening of the uterine cavity, but shall not  
21 include the placenta, extraembryonic membranes, umbilical cord,  
22 extraembryonic fluids and their resident cell types, [~~and~~]  
23 cultured cells or products of conception produced by in vitro  
24 fertilization clinics and targeted for disposal or deemed  
25 excess tissue;

.170442.1

